

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SARAH C. TAYLOR,)	
)	
Plaintiff,)	
)	
v.)	Civil Action No. 02-1552-KAJ
)	
JOHN E. POTTER, Postmaster General,)	CONSOLIDATED
U.S. Postal Service, Eastern Area,)	
)	
Defendant.)	
_____)	
SARAH C. TAYLOR,)	
)	
Plaintiff,)	
)	
v.)	
)	
JOHN E. POTTER, Postmaster General)	Civil Action No. 02-1619-KAJ
US Postal Service,)	
)	
Defendant.)	
_____)	
SARAH C. TAYLOR,)	
)	
Plaintiff,)	
)	
v.)	
)	
JOHN E. POTTER, Postmaster General,)	Civil Action No. 02-1620-KAJ
US Postal Service, and ANTHONY)	
PRINCIPI, Secretary Department of)	
Veterans Affairs,)	
)	
Defendants.)	

MEMORANDUM OPINION

Wilmington, Delaware
March 4, 2004

Sarah C. Taylor, 8 Hanover Place, Sicklerville, New Jersey, 08081, *pro se* plaintiff.

Colm F. Connolly, Esq., United States Attorney, and Paulette K. Nash, Esq., Assistant United States Attorney, 1007 N. Orange Street, Suite 700, P.O. Box 2046, Wilmington, Delaware, 19899-2046, counsel for defendants.

JORDAN, District Judge

I. INTRODUCTION

Presently before me is a Motion for Judgment on the Pleadings pursuant to Federal Rule of Civil Procedure 12(c), or in the alternative, for Summary Judgment pursuant to Federal Rule of Civil Procedure 56(c) (Docket Item [“D.I.”] 19) filed by defendants John E. Potter (“Potter”), Postmaster General, United States Postal Service (“USPS”) and Anthony Principi (“Principi”), Secretary of the Department of Veterans Affairs (“VA”) (collectively, “Defendants”) in Civil Action No. 02-1620-KAJ.¹ Jurisdiction in this case is proper under 28 U.S.C. § 1331. For the reasons set forth, the Defendants’ Motion will be granted.

II. BACKGROUND

On October 28, 2002, plaintiff Sarah C. Taylor (“Plaintiff”) filed a complaint pursuant to the Privacy Act of 1974, 5 U.S.C. § 552a, alleging that Defendants invaded her privacy by “illegal[ly] requesting and releas[ing] ... information and duplicat[ing] records in connection with plaintiff’s employment at, or application to be employed at” the USPS and VA located in Wilmington, Delaware. (D.I. 3 at ¶ 4.) Specifically, Plaintiff alleges that the USPS unlawfully, and without authorization, requested her VA medical records, and that the VA unlawfully, and without authorization, released her entire

¹On April 4, 2003, I issued an order consolidating Civil Action Nos. 02-1552-KAJ, 01-1619-KAJ and 02-1620-KAJ for all pretrial proceedings. This Memorandum Opinion applies only to Plaintiff’s Privacy Act cause of action raised in Civil Action No. 02-1620-KAJ, and does not affect Plaintiff’s claims brought under the Family and Medical Leave Act of 1993 in Civil Action No. 02-1619-KAJ, nor does it affect Plaintiff’s appeal of a decision of the Equal Employment Opportunity Commission’s regarding her claims of discrimination in Civil Action No. 02-1552-KAJ.

medical records to the USPS on January 21, 2001. (*Id.* at ¶ 7.) Plaintiff further alleges that her medical records have been duplicated and passed on to other postal employees. (*Id.*)

Plaintiff asserts that when she requested a copy of her medical records, she was only given a partial copy, and when she requested another complete copy, she was told she had to pay for it. (*Id.*) Plaintiff further asserts that, in June 2002, a copy of her medical records was released to her former union's Office of Workers Compensation ("OWC") representative, which constituted another unauthorized duplication and release of her private medical information. (*Id.*)

Plaintiff states that, if relief is not granted, she will be "irreparabl[y] denied rights secured under the Privacy Act of 1974 and Title VII of the Civil Rights Act of 1964. (*Id.* at ¶ 8.) She requests that "the court place an immediate order to stop the duplication and circulation" of her medical records and compensatory, punitive and other damages in the amount of \$500,000.00. (*Id.* at ¶ 9.)

Attached to Plaintiff's complaint is a letter from Dexter D. Dix, the Director of the VA in Wilmington, Delaware, dated June 10, 2002. (*Id.*, Ex. A.) This letter states that Plaintiff "signed a Workman's Comp Form CA-2² on November 14, 2000," which "authoriz[es] any physician or hospital (or any other person, institution, corporation, or government agency) to furnish any desired information to the U.S. Department of Labor, Office of Workers' Compensation Programs (or to its official representative)." (*Id.*) The Form CA-2 attached to Mr. Dix's letter indicates that Plaintiff initiated a worker's

²The Form CA-2 is entitled "Notice of Occupational Disease and Claim for Compensation" and is published by the Department of Labor. (D.I. 1, Ex. A.)

compensation claim against the USPS alleging an occupational illness or disease based on a “stressful working environment” created at her place of employment. (*Id.*)

Paragraph 18 of the Form CA-2 provides consent for the release of Plaintiff’s medical records in the context of a worker’s compensation claim, and there is also an express Privacy Act notice on the form.³ (*Id.*)

Defendants filed their Motion for Judgment on the Pleadings, or in the alternative, for Summary Judgment (D.I. 19) on June 25, 2003, which Plaintiff opposed on July 17, 2003 (D.I. 22).

III. STANDARD OF REVIEW

A Motion for Judgment on the Pleadings under Federal Rule of Civil Procedure 12(c) requires the court to “accept the allegations in the complaint as true, and draw all reasonable factual inferences in favor of the plaintiff.” *Turbe v. Gov’t of the Virgin Islands*, 938 F.2d 427, 428 (3d Cir. 1991). The motion can be granted “only if no relief could be granted under any set of facts that could be proved.” *Id.*, see also *Southmark Prime Plus, L.P. v. Falzone*, 776 F. Supp. 888, 891 (D. Del. 1991) (citation omitted); *Cardio-Medical Assocs., Ltd. v. Crozer-Chester Med. Ctr.*, 536 F. Supp. 1065, 1072 (E.D. Pa. 1982) (“If a complaint contains even the most basic of allegations that, when

³The Privacy Act notice on the form states, in part, “[i]nformation may be given to Federal, state and local agencies ... to obtain information relevant to a decision under [the Federal Employees’ Compensation Act, administered by the OWC Programs], to determine whether benefits are being paid properly” (See D.I. 20, Ex. 1 at 4.) It can be argued that the consent provided by Plaintiff in her Form CA-2 was intended by her to be broad enough to justify the release of medical information to her union’s OWC representative. In any event, there is unrebutted evidence that Plaintiff provided express written consent for her OWC representative to have access to her medical records (*id.* at Ex. 5), which would be a basis for summary judgment on this point, if this matter had to be decided as a motion for summary judgment.

read with great liberality, could justify plaintiff's claim for relief, motions for judgment on the pleadings should be denied.") Items attached to the complaint are incorporated therein and may be considered. See Fed. R. Civ. P. 10(c) ("A copy of any written instrument which is an exhibit to a pleading is a part thereof for all purposes.")

IV. DISCUSSION

I have focused on the pleadings in this matter, and my decision is thus on Defendants' Motion for Judgment on the Pleadings and not Defendants' alternative Motion for Summary Judgment.⁴

The Privacy Act of 1974, 5 U.S.C. § 552a(g)(1)(D), creates a private cause of action when a federal agency "fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse affect on an individual." 5 U.S.C. § 552a(g)(1)(D). In order for a plaintiff to prevail in a lawsuit brought under §§ 552a(g)(1)(C) or (D), the federal agency must have acted in a willful or intentional manner. Therefore, for a plaintiff to establish a claim for damages for improper disclosure under the Privacy Act, she must prove the following elements for each claim: (1) that the information disclosed is a record contained in a system of records; (2) that the agency improperly disclosed the information; (3) that the disclosure had an adverse effect on the plaintiff; and (4) that the disclosure was willful and intentional. *Quinn v. Stone*, 978 F.2d 126, 131 (3d Cir. 1992); *Madden v. Runyon*, 899 F. Supp. 217, 225 (E.D. Pa. 1995).

⁴However, were it necessary to view the motion as one for summary judgment (see *supra* n.2), the outcome would be the same.

Based upon the information contained in Plaintiff's pleading, she has not alleged, nor can she prove all of these required elements in order to sustain a cause of action under the Privacy Act. It is clear from the documents attached to Plaintiff's complaint that she provided prior written consent, by way of the Form CA-2, for her medical records to be disclosed to the USPS from the VA. Because plaintiff provided this consent, she is unable to prove that the federal agency improperly disclosed her medical records, an essential element of a private cause of action under the Privacy Act.

V. CONCLUSION

For these reasons, Defendants' Motion for Judgment on the Pleadings (D.I. 19) will be granted. An appropriate order will issue.

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US Postal Service, and ANTHONY)	
PRINCIPI, Secretary Department of)	
Veterans Affairs,)	
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Defendants.)	

ORDER

For the reasons set forth in the Memorandum Opinion issued today, it is hereby
ORDERED that Defendants' Motion for Judgment on the Pleadings (D.I. 19) filed in Civil

Action No. 02-1620-KAJ is GRANTED and Defendants' alternative Motion for Summary Judgment filed in Civil Action No. 02-1620-KAJ (D.I. 19) is DENIED as moot.

Kent A. Jordan
UNITED STATES DISTRICT JUDGE

Wilmington, Delaware
March 4, 2004